



**NEW YORK STATE ASSOCIATION FOR BILINGUAL EDUCATION**

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**New York State Association for Bilingual Education**

**Presents**

**Recommendations for the Proposed Revisions to  
Commissioners Regulations PART 154**

**Respectfully Submitted by:  
The Executive Board & Delegate Assembly**

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September 17, 2012

Esteemed Members of the Board of Regents:

On behalf of the New York State Association for Bilingual Education's (NYSABE) Executive Board, Delegate Assembly and Executive Director, I present to you our organization's recommendations for the Proposed Revisions of Commissioner's Regulations Part 154.

One of NYSABE's main goals is to safeguard the educational rights of English language learners (ELLs)/bilingual students. We are at a pivotal time in education in which we are facing major shifts. For this reason, it is imperative that we ensure that the unique needs of the more than 300,000 LEP/ELL students are at the forefront of these shifts. These students and their families must be provided access to the most appropriate, research-based, high quality education designed to ensure their success for college and career readiness.

With the interconnectedness of all the state initiatives: Common Core Standards, Teacher/Leader Effectiveness, and Data Driven Instruction, it is key that the most appropriate programs and accountability measures are in place so that a consistent and clear understanding of expectations is communicated to all: students, practioners, and parents.

In the spirit of New York State being the second state to pass the monumental State Seal of Biliteracy legislation, we must secure the pathway to achieve such a distinction. We must encourage and support districts and schools in developing biliteracy skills through high quality bilingual programs.

Please accept the following document as recommendations to the revisions to the Commissioner's Regulation Part 154. We welcome the opportunity to discuss them in full detail at your earliest convenience.

In closing, NYSABE applauds the Board of Regents' commitment to ensuring that ELLs/Bilingual learners have equal access to educational opportunities and we are grateful for your unfailing support to the work of educators, parents, and community members whom NYSABE represents.

Sincerely,

*María-Angélica Meyer*

María-Angélica Meyer  
NYSABE President, 2011-2012

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**NEW YORK STATE ASSOCIATION FOR BILINGUAL EDUCATION**  
**Recommendations for the Proposed Revisions CR Part 154**

**Definitions**

For the purposes of this document, students currently referred to as limited English proficient (LEP), will be designated as limited English proficient (LEP)/English language learners (ELLs).

**Recommendations:**

The definition of a limited English proficient (LEP)/English language learner (ELL) must include:

- Pupils who come from a home/country where a Creole or non-Creole based language is spoken.
- Pupils who are non-verbal and who by reason of foreign birth or ancestry understand (or are only exposed to, or have receptive language) in their native language which is a language other than English.
- Early Childhood/Pre-K students who have been identified as LEP/ELLs.

**Initial Identification and Placement**

**Recommendations:**

- The identification process of LEP/ELLs should include early childhood/pre-school children and students with interrupted formal education (SIFE). Their identification must be conducted through linguistically and culturally appropriate instruments, methods, and procedures, including educational and social history, and an age appropriate interview in English and in the native language, that will reveal the child's knowledge, abilities, and skills in their native and second languages. The analysis of this process will assist educators in determining the best pedagogy for the child.
- Students with severe cognitive disabilities may not be able to take the LAB test; consequently, an alternative assessment for identification purposes should be developed.
- Clear and specific qualifications for personnel (teachers, assistant teachers, support personnel, administrators, etc.) involved in the identification process as well as the supervision of placement must be stated in Part 154.

**NYSESLAT Annual Assessment**

**Recommendations:**

- For students with severe cognitive disabilities, whose Individual Educational Programs (IEPs) mandate NYS Alternative Assessments, the New York State English Language

Achievement Test (NYSESLAT) must be replaced by Alternate Assessment measures, aligned to the Common Core Standards. Alternate Assessment procedures must be used to drive instructional practices and will not be used as an exit criterion.

- For students placed in early childhood/pre-school bilingual or ESL programs, Part 154 must specify the annual assessment instruments, methods, and procedures.
- For high school students passing the English Language Arts (ELA) Regent, but not the NYSESLAT, Part 154 must specify the exit criteria.
- For high school students, CR Part 154 must indicate that up to half of the language arts requirements for graduation can be met through native language arts classes.
- LEP/ELLs should be exempt from the English Language Arts Assessment for a minimum of three (3) years from the date of entry in a U.S. School. During these three years, progress in the English language will be assessed by the NYSESLAT, which will be aligned to the Common Core State Standards by April 2013, and consequently, will reflect the rigor of the ELA tests.

### **Bilingual and English as a Second Language (ESL) Program Requirements**

#### **Recommendations:**

- The descriptions of programs must address **all** students who have been identified as LEP/ELLs, including: (1) early childhood/Pre-school children, (2) speakers of Creole and non-creole based languages, (3) students with severe cognitive disabilities, and students with interrupted formal education (SIFE).
- For students with severe disabilities, bilingual and ESL instruction must adhere to the specifications on the students' IEPs, without exceptions
- NYSED should maintain the school districts requirement:
  - To offer a bilingual education program when there are 20 or more students (15 in NYC) speaking the same home language, in the same grade, in a particular school building. To offer ESL instruction when there are fewer than 20 students speaking the same home language, in the same grade, in a particular school building.
- Part 154 instructional requirements should emphasize the bilingual program continuity from year to year until the student is no longer a LEP/ELL. Serious educational consequences derive when students are transferred from one program to another.
- Specific guidance should be provided for ESL and bilingual instructional programs regarding student-teacher class size ratio and the combination of grades during an instructional period.
- School districts should not be exempted from providing a bilingual education program due to lack of qualified bilingual teachers. Instead, the **Intensive Teacher Institute in Bilingual Education** program should serve to fulfill the needs of the districts for qualified bilingual teachers.
- Beginner students in grades K-8 bilingual and ESL programs should receive 3 units of ESL instruction as required in grades 9-12. These units should be divided into: 1 unit of stand-alone ESL and 2 units of integrated ESL and content (content area sheltered instruction).

- Similarly, students in Grades 9-12 should receive 3 units of ESL instruction divided into: 1 unit of stand-alone ESL and 2 units of integrated ESL and content (content area sheltered instruction).
- In the case of instruction using the integrated ESL and content approach, Part 154 must specify ESL and content teachers' qualifications and training.
- ELA credits should be received based on units of ESL instruction and counted towards graduation requirements. Similarly, native language arts instruction should be counted towards graduation requirements.
- Development of alternative pathways to HS graduation should be available for ELLs.
- In the spirit of **New York State's Seal of Biliteracy legislation**, Part 154 will encourage and support districts and schools in developing biliteracy skills by requiring bilingual programs to provide a minimum of one unit of native language arts and a minimum of one unit of a content area taught in the students' native language.

### **School District Responsibilities**

#### **Recommendations:**

- Reports on LEP/ELLs identified, placed and served must specify the number of early childhood/pre-school pupils, SIFE students, LEP/ELLs with severe disabilities, and students from home/country where Creole or non-Creole based languages are spoken. Reports must specify their type of instruction, assessments, and support services.
- Financial annual reports must specify student activities as well as professional development and ongoing support for educators focusing on the education of LEP/ELLs. Reports must also specify supports and training for parents and families.
- **Types of Programs.** CR Part 154 must require specific description of research- based Bilingual/ESL models of instruction and methodologies to be implemented at each school. Descriptions must underscore rigorous pedagogical practices aligned to Common Core Standards and other NYSED initiatives.
- Districts must be required to provide detailed descriptions of research-based optimum program models to be implemented for early childhood/pre-school LEP/ELLs, SIFE students, pupils with severe cognitive disabilities whose IEPs recommend bilingual/ESL instruction, and students from homes/schools where Creole or non-Creole based languages are spoken. Descriptions must underscore the alignment of rigorous practices with Common Core Standards and other NYSED initiatives.
- District plan preparation, description and implementation should not only be the responsibility of the Bilingual/ESL coordinator, but also should involve a committee composed of district and school professionals.

### **Support Services**

#### **Recommendations:**

- Part 154 must provide clear guidance regarding the provision of instructional and counseling support services for LEP/ELLs, in general and special education, including SIFE students, who do not meet satisfactory academic performance or are in need of counseling or other related services. This additional support must address the academic, socio emotional needs of the students as well as their linguistic and cultural characteristics.
- Part 154 must require specific descriptions of linguistically and culturally appropriate support services for parents and families.
- Districts must be required to provide specific descriptions of transitional services to be provided to former LEP/ELLs two years after meeting designated exit criteria on state assessments for LEP/ELLs.

### **Parental Participation and Notifications**

#### **Recommendations:**

- School and district personnel must meet with all parents of LEP/ELLs at least twice a year to discuss issues related to the ELL instructional and assessment program, progress reports, and alignment to current federal, state, and local regulations and initiatives. All information and discussions must be conducted in English and the parents' preferred language.
- Prior to withdrawing their children from a bilingual education program or declining this educational option, parents must be required to meet with the school principal and district administrator of bilingual education to discuss educational values of the program and staff qualifications, as well as parental options.
- Parent orientations must take place within the first semester of their child's enrollment in school.

### **Certification, In-service Professional Development and Training Requirements**

#### **Recommendations:**

- **Administration and Supervision Certification:** Supervision and Leadership programs must include a minimum of nine (9) credits on Part 154 program requirements and research-based optimum pedagogical practices for LEP/ELLs. Visitations to successful programs for LEP/ELLs are also recommended
- **Teacher Certification (All subject areas):** All applicants for teaching certifications must be required to complete a minimum of nine (9) credit hours on research-based rigorous pedagogy for LEP/ELLs, in alignment to NYSED initiatives.



- The “level of performance satisfactory to the commissioner” in relation to bilingual teachers’ bilingual skills must be raised. Raising the standard of bilingualism and biliteracy among teachers will ensure their ability to provide rigorous instruction in two languages.
- Part 154 must include alternative pathways toward certification for candidates for bilingual licenses in low-incidence languages
- Districts and schools must be required to design and implement a comprehensive, research-based professional development plan that addresses rigorous instruction leading to academic success and socio emotional well-being of LEP/ELLs. Part 154 regulations must provide guidance for this professional development design which will include all professionals and paraprofessionals working with ELLs, will specify the minimum amount of hours specifically targeted to the instruction and assessment of ELLs, and will determine the content and outcomes of the training.
- Certified personnel are required to complete 175 hours of professional development every 5 years. It is recommended that a minimum of twenty-five (25) hours be devoted to the education of LEP/ ELLs, if teachers do not already possess equivalent coursework
- All district and school staff serving LEP/ELLs must be required to participate in professional development activities focusing on the education of LEP/ELLs.

#### **Purpose and Scope of C.R.Part 154**

##### **Recommendations:**

- Update CR Part 154 to ensure that its language mirrors rigorous, research-based instruction
- Replace LEP with LEP/ELLs
- Replace the term “providing services” with “educating LEP/ELLs through bilingual or ESL instruction.”
- Replace the term “continues to be LEP” with “determine if a student is making progress towards English language proficiency, as measured by state assessments.”